

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

MANUEL ARECHE,

Petitioner,

v.

MICHAEL THOMPSON,

Respondent.

Civil Action No. 05-11121-MEL

**RESPONDENT'S MOTION TO DISMISS PETITION
FOR WRIT OF HABEAS CORPUS AS TIME-BARRED**

Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, the respondent respectfully submits this motion to dismiss the petition for writ of habeas corpus filed by the petitioner, Manuel Areche. The petition must be dismissed as time-barred under 28 U.S.C. § 2244(d), the statute of limitations for federal habeas corpus petitions, which is contained in the Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA"). As is set forth in greater detail in the accompanying memorandum of law, the petitioner's conviction became final on October 20, 1997. As such, Areche was required to file his federal habeas petition before the lapse of the one-year statute of limitations on October 20, 1998. However, Areche did not bring this petition until May 26, 2005, over six years after the limitation period lapsed. Moreover, the statute of limitations was not tolled at any point between October 20, 1997 and October 21, 1998. Accordingly, the petition is untimely and should be dismissed.¹

¹ Since it is clear from the face of the petition and the attached docket sheets that the petition is time-barred, the respondent will not, in the interest of economy, answer the petition or address any additional affirmative defenses. Should this Court rule that the petition is not time-barred, the respondent respectfully requests thirty days from the date of receipt of this Court's order to answer the petitioner or file a supplemental memorandum which shall address the additional affirmative defenses and/or the merits of the petition.

WHEREFORE, the respondent respectfully requests that the Court dismiss this habeas petition with prejudice on the grounds that it is time-barred.

Respectfully submitted,

THOMAS F. REILLY
ATTORNEY GENERAL

June 28, 2005

/s/ Susanne G. Reardon
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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the attached motion was served upon petitioner:
Manuel Areche, pro se
MCI Shirley
1 Harvard Road, P.O. Box 1218
Shirley, MA 01464-1218
by first class mail, postage pre-paid, on June 28, 2005.

/s/ Susanne G. Reardon
Susanne G. Reardon
Assistant Attorney General